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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION

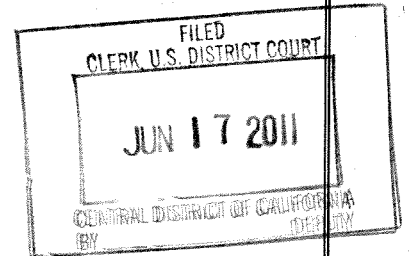
13 UNITED STATES OF AMERICA  
14 and PEOPLE OF THE STATE OF  
CALIFORNIA, *ex rel.* CALIFORNIA  
15 DEPARTMENT OF FISH AND  
GAME and CALIFORNIA  
16 REGIONAL WATER QUALITY  
CONTROL BOARD, CENTRAL  
17 COAST REGION,

18 Plaintiffs,

19 v.

20 HVI CAT CANYON, INC., f/k/a  
21 GREKA OIL & GAS, INC.

22 Defendant.



CV11-05097DDP(P2x)

Civil Action No.

COMPLAINT FOR CIVIL  
PENALTIES, INJUNCTIVE RELIEF,  
COST RECOVERY, AND DAMAGES  
UNDER THE CLEAN WATER ACT,  
OIL POLLUTION ACT OF 1990,  
CALIFORNIA WATER CODE, AND  
CALIFORNIA FISH AND GAME  
CODE

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10 Attorneys for Plaintiff People of the State of  
California *ex rel.* the California Department of Fish  
11 and Game and the California Regional Water  
Quality Control Board, Central Coast Region  
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1 The United States of America, by authority of the Attorney General of the  
 2 United States and through the undersigned attorneys, acting at the request of the  
 3 Administrator of the United States Environmental Protection Agency ("EPA") and  
 4 the United States Coast Guard ("Coast Guard"), and the People of the State of  
 5 California *ex rel.* California Department of Fish and Game ("DFG") and California  
 6 Regional Water Quality Control Board, Central Coast Region ("Regional Board"),  
 7 file this Complaint and allege as follows:

#### 8 NATURE OF THE ACTION

9 1. This is a civil action for civil penalties, injunctive relief, cost  
 10 recovery, and damages brought against Defendant HVI Cat Canyon, Inc., f/k/a  
 11 Greka Oil & Gas, Inc. ("Defendant") under the Clean Water Act ("CWA"), 33  
 12 U.S.C. § 1251 et seq.; the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. § 2701 et  
 13 seq.; the California Water Code § 13000 et seq.; and the California Fish and Game  
 14 Code § 5650 et seq.

#### 15 JURISDICTION, AUTHORITY, VENUE, AND NOTICE

16 2. This Court has jurisdiction over the subject matter of this action and  
 17 over the parties pursuant to Sections 309(b) and 311(b)(7)(E) and (n) of the CWA,  
 18 33 U.S.C. §§ 1319(b) and 1321(b)(7)(E) and (n); Section 1017(b) of the OPA, 33  
 19 U.S.C. § 2717(b); 28 U.S.C. §§ 1331, 1345, and 1355; and California Water Code  
 20 section 13385(a)(5). The Court has supplemental jurisdiction over the state law  
 21 causes of action for which there is no federal question jurisdiction pursuant to 28  
 22 U.S.C. § 1367 because the state law causes of action are so related to the United  
 23 States' claims that they form part of the same case or controversy. The Court has  
 24 personal jurisdiction over the parties to this action, including DFG and the  
 25 Regional Board by virtue of their filing this Complaint.

26 3. Authority to bring this action on behalf of the United States is vested  
 27 in the United States Department of Justice by Section 506 of the CWA, 33 U.S.C.  
 28 § 1366; 28 U.S.C. §§ 516 and 519; and Section 10(a) of Executive Order No.

1 12,777, 56 Fed. Reg. 54,757(Oct. 22, 1991).

2 4. Authority to bring this action on behalf of DFG and the Regional  
3 Board is vested in the California Attorney General by California Water Code  
4 sections 13350(g) and 13385(b) and California Fish and Game Code section  
5 5650.1(d).

6 5. Venue is proper in this District pursuant to Sections 309(b) and  
7 311(b)(7)(E) of the CWA, 33 U.S.C. §§ 1319(b) and 1321(b)(7)(E); Section  
8 1017(b) of the OPA, 33 U.S.C. § 2717(b); and 28 U.S.C. §§ 1391 and 1395(a),  
9 because Defendant does business in this District and the events giving rise to the  
10 claims alleged herein occurred in this District.

11 6. The United States has given notice of the commencement of this  
12 action to the State of California, as required by Section 309(b) of the CWA, 33  
13 U.S.C. § 1319(b).

14 DEFENDANT

15 7. Defendant is a Colorado corporation with headquarters in Santa  
16 Maria, California. On May 12, 2011, Greka Oil & Gas, Inc. filed Articles of  
17 Amendment with the Colorado Secretary of State changing its name to HVI Cat  
18 Canyon, Inc.

19 STATUTORY AND REGULATORY BACKGROUND

20 Section 311 of the Clean Water Act

21 8. Section 311(b) of the CWA, 33 U.S.C. § 1321(b), prohibits the  
22 discharge of oil or hazardous substances into or upon the navigable waters of the  
23 United States or adjoining shorelines in such quantities as the President determines  
24 may be harmful to the public health or welfare or environment of the United States.

25 9. The CWA defines “discharge” to include “any spilling, leaking,  
26 pumping, pouring, emitting, emptying or dumping,” except as specifically  
27 excluded therein, 33 U.S.C. § 1321(a)(2); “oil” as “oil of any kind or in any form,  
28 including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed

1 with wastes other than dredged spoil,” 33 U.S.C. § 1321(a)(1); and “navigable  
2 waters” as “the waters of the United States, including the territorial seas,” 33  
3 U.S.C. § 1362(7).

4 10. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4),  
5 EPA, acting through its delegated authority under Executive Order No. 11,735, 38  
6 Fed. Reg. 21,243 (Aug. 7, 1973), has determined by regulation that discharges of  
7 oil in such quantities as may be harmful to the public health or welfare or  
8 environment of the United States include discharges of oil that “(a) Violate  
9 applicable water quality standards; or (b) Cause a film or sheen upon or  
10 discoloration of the surface of the water or adjoining shorelines or cause a sludge  
11 or emulsion to be deposited beneath the surface of the water or upon adjoining  
12 shorelines.” 40 C.F.R. § 110.3.

13 11. Section 311(b)(7)(A) of the CWA, 33 U.S.C. § 1321(b)(7)(A),  
14 provides that any person who is the owner, operator, or person in charge of an  
15 onshore facility from which oil is discharged in violation of Section 311(b)(3) of  
16 the CWA shall be subject to a civil penalty.

17 12. Section 311(a) of the CWA defines “person” to include corporations,  
18 33 U.S.C. § 1321(a)(7); and “onshore facility” as “any facility (including, but not  
19 limited to, motor vehicles and rolling stock) of any kind located in, on, or under,  
20 any land within the United States other than submerged land,” 33 U.S.C.  
21 § 1321(a)(10).

22 13. Pursuant to Section 311(b)(7)(A) of the CWA, EPA’s 2004 Civil  
23 Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121 (Feb. 13, 2004),  
24 and EPA’s 2008 Civil Monetary Penalty Inflation Adjustment Rule, 73 Fed. Reg.  
25 75,340 (Dec. 11, 2008), each violation of Section 311(b)(3) of the CWA occurring  
26 from March 15, 2004, through January 12, 2009, is subject to a civil penalty of up  
27 to \$32,500 per day or up to \$1,100 per barrel of oil discharged, and each violation  
28 of Section 311(b)(3) of the CWA occurring after January 12, 2009, is subject to a

1 civil penalty of up to \$37,500 per day or up to \$1,100 per barrel of oil discharged.  
2 40 C.F.R. § 19.4.

3 14. Pursuant to Section 311(b)(7)(D) of the CWA, 33 U.S.C.  
4 § 1321(b)(7)(D), and EPA's 2004 Civil Monetary Penalty Inflation Adjustment  
5 Rule, 69 Fed. Reg. 7121 (Feb. 13, 2004), where the violation of Section 311(b)(3)  
6 of the CWA occurring after March 15, 2004 is the result of gross negligence or  
7 willful misconduct, the owner, operator, or person in charge is subject to a civil  
8 penalty of up to \$4,300 per barrel of oil discharged.

9 Sections 301 and 309 of the Clean Water Act

10 15. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the  
11 discharge of any pollutant by any person, except as authorized by the CWA.

12 16. Section 502 of the CWA defines "person" to include corporations, 33  
13 U.S.C. § 1362(5); "discharge of a pollutant" to include "any addition of any  
14 pollutant to navigable waters from any point source," 33 U.S.C. § 1362(12);  
15 "pollutant" to include "solid waste, . . . chemical wastes, . . . biological materials, .  
16 . . and industrial . . . waste discharged into water," 33 U.S.C. § 1362(6); "navigable  
17 waters" as "the waters of the United States, including the territorial seas," 33  
18 U.S.C. § 1362(7); and "point source" as "any discernible, confined and discrete  
19 conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit,  
20 well, discrete fissure, container, rolling stock, concentrated animal feeding  
21 operation, or vessel or other floating craft, from which pollutants are or may be  
22 discharged," 33 U.S.C. § 1362(14).

23 17. Section 309(b) of the CWA, 33 U.S.C. § 1319(b), authorizes EPA to  
24 bring a civil action seeking "appropriate relief, including a permanent or temporary  
25 injunction," for violations of Section 301 of the CWA.

26 Oil Pollution Prevention Regulations

27 18. Section 311(j)(1) of the CWA, 33 U.S.C. § 1321(j)(1), authorizes the  
28 President to issue regulations establishing procedures, methods, equipment, and



1 other requirements to prevent and contain discharges of oil and hazardous  
2 substances from onshore facilities.

3 19. Pursuant to Section 311(j)(1) of the CWA, EPA, acting through its  
4 delegated authority under Executive Order No. 11,735, 38 Fed. Reg. 21,243 (Aug.  
5 7, 1973), and Section 2(b)(1) of Executive Order No. 12,777, 56 Fed. Reg. 54,757  
6 (Oct. 22, 1991), has issued Oil Pollution Prevention regulations governing owners  
7 and operators of non-transportation-related onshore and offshore facilities. These  
8 regulations are found at 40 C.F.R. Part 112.

9 20. The Oil Pollution Prevention regulations apply to “any owner or  
10 operator of a non-transportation-related onshore or offshore facility engaged in  
11 drilling, producing, gathering, storing, processing, refining, transferring,  
12 distributing, using, or consuming oil and oil products, which, due to its location,  
13 could reasonably be expected to discharge oil in quantities that may be harmful, as  
14 described in [40 C.F.R. § 110.3], into or upon the navigable waters of the United  
15 States or adjoining shorelines . . . that has oil in: (1) Any aboveground container;  
16 . . . or (3) Any container that is used for standby storage, for seasonal storage, or  
17 for temporary storage, or not otherwise ‘permanently closed’ as defined in [40  
18 C.F.R.] § 112.2.” 40 C.F.R. § 112.1(b).

19 21. 40 C.F.R. § 112.2 defines “onshore facility” as “any facility of any  
20 kind located in, on, or under any land within the United States, other than  
21 submerged lands.”

22 22. 40 C.F.R. § 112.3 requires the owner or operator of a regulated  
23 facility to prepare and implement a written Spill Prevention, Control, and  
24 Countermeasure Plan (“SPCC Plan”) in accordance with 40 C.F.R. § 112.7 and  
25 any other applicable section of 40 C.F.R. Part 112.

26 23. On July 17, 2002, EPA promulgated a final rule (“Revised Rule”)  
27 amending the Oil Pollution Prevention regulations. 67 Fed. Reg. 47,042 (July 17,  
28 2002). The effective date of the Revised Rule was August 16, 2002.

1        24. The owner or operator of a regulated facility in operation as of August  
2 16, 2002, that had not prepared and implemented an SPCC Plan as of that date was  
3 required to prepare and implement an SPCC Plan immediately that met the  
4 requirements of the Revised Rule. 40 C.F.R. § 112.3; 67 Fed. Reg. 47,042, 47,082.

5        25. The owner or operator of a regulated facility in operation as of August  
6 16, 2002, that had prepared and implemented a SPCC Plan as of that date was  
7 required (a) to maintain an SPCC Plan in accordance with the requirements of 40  
8 C.F.R. Part 112 (2002); and (b) to amend the SPCC Plan to meet the requirements  
9 of the Revised Rule, and implement that amended SPCC Plan, no later than  
10 November 10, 2010 (for onshore facilities required to have and submit Facility  
11 Response Plans), or November 10, 2011 (for other onshore facilities). 40 C.F.R.  
12 § 112.3(a)(1); 67 Fed. Reg. 47,042, 47,082; 75 Fed. Reg. 63,093, 63,096 (Oct. 14,  
13 2010).

14        26. Pursuant to 40 C.F.R. § 112.20(a), the “owner or operator of any non-  
15 transportation-related onshore facility that, because of its location, could  
16 reasonably be expected to cause substantial harm to the environment by  
17 discharging oil into or on the navigable waters or adjoining shorelines” must  
18 prepare and submit to EPA a Facility Response Plan that meets the requirements  
19 set forth in that section.

20        27. Pursuant to 40 C.F.R. § 112.20(f)(1), a facility “could reasonably be  
21 expected to cause substantial harm to the environment” within the meaning of 40  
22 C.F.R. § 112.20(a) if, inter alia, the facility has a total oil storage capacity of at  
23 least one million gallons and has had a reportable oil discharge of at least 10,000  
24 gallons within the last five years.

25        28. Pursuant to 311(b)(7)(C) of the CWA, 33 U.S.C. § 1321(b)(7)(C), and  
26 EPA’s 2004 and 2008 Civil Monetary Penalty Inflation Adjustment Rules, 69 Fed.  
27 Reg. 7121 (Feb. 13, 2004) and 73 Fed. Reg. 75,340 (Dec. 11, 2008), each violation  
28 of the Oil Pollution Prevention regulations occurring from March 15, 2004,



1 through January 12, 2009, is subject to a civil penalty of up to \$32,500 per day of  
 2 violation, and each violation of the Oil Pollution Prevention regulations occurring  
 3 after January 12, 2009, is subject to a civil penalty of up to \$37,500 per day of  
 4 violation. 40 C.F.R. § 19.4.

5 The Oil Pollution Act of 1990

6 29. Section 1002(a) of the OPA, 33 U.S.C. § 2702(a), provides that “each  
 7 responsible party for . . . a facility from which oil is discharged, or which poses the  
 8 substantial threat of a discharge of oil, into or upon the navigable waters or  
 9 adjoining shorelines . . . is liable for the removal costs and damages specified in  
 10 [33 U.S.C. § 2702(b)] that result from such incident.”

11 30. Section 1001(32) of the OPA, 33 U.S.C. § 2701(32), defines  
 12 “responsible party” to include, “[i]n the case of an onshore facility (other than a  
 13 pipeline), any person owning or operating the facility . . . .”

14 31. Section 1001(24) of the OPA, 33 U.S.C. § 2701(24), defines “onshore  
 15 facility” to mean “any facility . . . of any kind located in, on, or under, any land  
 16 within the United States other than submerged land.”

17 32. Section 1001(9) of the OPA, 33 U.S.C. § 2701(9), defines “facility” to  
 18 mean “any structure, group of structures, equipment, or device (other than a vessel)  
 19 which is used for one or more of the following purposes: exploring for, drilling  
 20 for, producing, storing, handling, transferring, processing, or transporting oil.”

21 33. Section 1001(27) of the OPA, 33 U.S.C. § 2701(27), defines “person”  
 22 to include a corporation.

23 34. Section 1001(23) of the OPA, 33 U.S.C. § 2701(23), defines “oil” to  
 24 mean “oil of any kind or in any form, including, but not limited to, petroleum, fuel  
 25 oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.”

26 35. Section 1001(7) of the OPA, 33 U.S.C. § 2701(7), defines “discharge”  
 27 to mean “any emission (other than natural seepage), intentional or unintentional”  
 28 and to include “spilling, leaking, pumping, pouring, emitting, emptying, or

1 dumping.”

2 36. Section 1001(21) of the OPA, 33 U.S.C. § 2701(21), defines  
3 “navigable waters” as “the waters of the United States, including the territorial  
4 seas.”

5 37. Section 1001(31) of the OPA, 33 U.S.C. § 2701(31), defines “removal  
6 costs” to mean “the costs of removal that are incurred after a discharge of oil has  
7 occurred or, in any case in which there is a substantial threat of a discharge of oil,  
8 the costs to prevent, minimize, or mitigate oil pollution from such an incident.”

9 38. Section 1001(30) of the OPA, 33 U.S.C. § 2701(30), defines  
10 “remove” and “removal” to mean “containment and removal of oil or a hazardous  
11 substance from water and shorelines or the taking of other actions as may be  
12 necessary to minimize or mitigate damage to the public health or welfare,  
13 including, but not limited to, fish, shellfish, wildlife, and public and private  
14 property, shorelines, and beaches.”

15 39. Section 1002(b)(1) of the OPA, 33 U.S.C. § 2702(b)(1), provides that  
16 the “removal costs” referred to in Section 1002(a) of the OPA, 33 U.S.C.  
17 § 2702(a), include “all removal costs incurred by the United States . . . under [33  
18 U.S.C. § 1321] subsection (c), (d), (e), or (f).”

19 40. Section 1001(14) of the OPA, 33 U.S.C. § 2701(14), defines  
20 “incident” to mean “any occurrence or series of occurrences having the same  
21 origin, involving one or more . . . facilities . . . resulting in the discharge or  
22 substantial threat of discharge of oil.”

23 41. Federal removal actions are funded through the Oil Spill Liability  
24 Trust Fund (“Fund”), which is administered by the Coast Guard’s National  
25 Pollution Funds Center and financed in part by recoveries from responsible parties.

26 The California Water Code Section 13350

27 42. California Water Code section 13350(a) prohibits, through the  
28 imposition of civil liability, any person from causing or permitting “any oil or

1 residuary product of petroleum to be deposited in or on any waters of the state  
2 ....”

3 43. California Water Code section 13050(e) defines “waters of the state”  
4 as “any surface water or groundwater, including saline waters, within the  
5 boundaries of the state.”

6 44. The scope of liability for violation of California Water Code section  
7 13350(a) is set forth in California Water Code section 13350(d), which authorizes  
8 a court to impose civil liability on either a per day basis, or a per gallon basis, but  
9 not both. The per day penalty may not exceed \$15,000 for each day the violation  
10 occurs, and the per gallon penalty may not exceed 20 dollars for each gallon of  
11 waste discharged.

#### 12 The California Water Code Section 13385

13 45. The California Water Code also prohibits, through the imposition of  
14 civil liability, the violation of certain provisions of the federal CWA. In particular,  
15 California Water Code section 13385(a)(5) authorizes the imposition of civil  
16 liability on any person who violates, among other provisions, CWA section 301.

17 46. As discussed above, CWA section 301(a), 33 U.S.C. § 1311(a),  
18 prohibits the discharge of any pollutant by any person except in accordance with  
19 certain requirements, such as holding a valid National Pollutant Discharge  
20 Elimination System (“NPDES”) permit.

21 47. California Water Code section 13385(b) provides for the imposition  
22 of civil penalties for violations of section 13385(a). Available penalties include a  
23 per day penalty, plus a per gallon penalty in certain circumstances. The per day  
24 penalty may not exceed \$25,000 per day. The per gallon penalty may be imposed  
25 in an amount not to exceed 25 dollars per gallon for each gallon over 1,000 gallons  
26 discharged but not cleaned up.

#### 27 The California Fish and Game Code Section 5650

28 48. California Fish and Game Code section 5650(a) prohibits placing

1 petroleum or any residuary product of petroleum in or on a water of the state, or in  
2 a place where it can pass into a water of the state.

3 49. California Fish and Game Code section 89.1 defines “water of the  
4 state” to have the same meaning as used in the California Water Code section  
5 13050(e).

6 50. California Fish and Game Code section 5650.1 provides that “[e]very  
7 person who violates Section 5650 is subject to a civil penalty of not more than  
8 twenty-five thousand dollars (\$25,000) for each violation.”

9 The California Fish and Game Code Section 12016

10 51. California Fish and Game Code section 12016(a) provides that “any  
11 person who discharges or deposits any substance or material deleterious to fish,  
12 plan, bird, or animal life or their habitat” is “liable civilly to the department [DFG]  
13 for all actual damages to fish, plant, bird, or animal life or their habitat . . . .”

14 52. California Fish and Game Code section 12016(a) also provides that  
15 DFG is also entitled to recover “the reasonable costs incurred in cleanup the  
16 deleterious substance or material or abating its effects, or both.”

17 The California Fish and Game Code Section 13013

18 53. California Fish and Game Code section 13230 authorizes DFG to  
19 expend monies from its Oil Pollution Administration Subaccount to administer  
20 certain pollution response, abatement and habitat restoration activities.

21 54. California Fish and Game Code section 13013 requires DFG to  
22 “recover from the spiller [or] responsible party . . . all expenditures paid from the”  
23 Oil Pollution Administration Subaccount “and all costs incurred by the department  
24 arising from the administration and enforcement of applicable pollution laws.”

25 GENERAL ALLEGATIONS

26 55. Defendant is a “person” within the meaning of Sections 311(a)(7) and  
27 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5); Section 1001(27) of the  
28 OPA, 33 U.S.C. § 2701(27); California Water Code sections 13350 and 13385; and

1 California Fish and Game Code sections 5650, 5650.1, and 12016.

2 56. Defendant is a “spiller” or “responsible party” within the meaning of  
3 California Fish and Game Code section 13013.

4 57. At times relevant to this action, Defendant owned and/or operated the  
5 12 oil and gas production facilities identified in Attachment A. Defendant  
6 continues to own and/or operate each facility identified in Attachment A except for  
7 the U-Cal Facility.

8 58. At times relevant to this action, Defendant owned and/or operated the  
9 Bradley Three-Island Facility, an oil and gas production facility located at 3851  
10 Telephone Road in Santa Maria, California. Defendant continues to own and/or  
11 operate the Bradley Three-Island Facility.

12 59. Defendant’s oil and gas production facilities identified in Attachments  
13 A and the Bradley Three-Island Facility extract crude oil from oil reservoirs  
14 through the injection of heated water. The fluids pumped from the ground are a  
15 combination of crude oil and produced water. In order to make the crude oil  
16 suitable for processing, Defendant separates crude oil from produced water in  
17 tanks, sumps, separators, and ponds.

18 60. Produced water is present in a reservoir with crude oil, or injected into  
19 the reservoir to help extract crude oil, and is produced to the surface together with  
20 the crude oil. Produced water typically contains water, crude oil, grease, dissolved  
21 salts, organic compounds, and inorganic compounds.

22 61. Crude oil and produced water are “oil” within the meaning of Section  
23 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1); 40 C.F.R. § 112.2; and Section  
24 1001(23) of the OPA, 33 U.S.C. § 2701(23).

25 62. Crude oil and produced water are “pollutants” within the meaning of  
26 Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

27 63. Crude oil and produced water are “oil or residuary products of  
28 petroleum” within the meaning of California Water Code section 13350(a).

1           64. Crude oil and produced water are “petroleum . . . or any residuary  
2 product of petroleum” and a “substance or material deleterious to fish, plant life, or  
3 bird life” within the meaning of California Fish and Game Code section 5650.

4                           Davis Facility Spills

5           65. On or about December 7, 2005, an injection tank known as Waste  
6 Water Tank #2 at Defendant’s Davis Facility in Los Olivos, California, overfilled  
7 and ruptured, spilling crude oil and produced water (“December 2005 Davis  
8 Spill”). The crude oil and produced water escaped the Davis Facility’s secondary  
9 containment unit and flowed down an access road and through a drainage culvert.

10           66. Crude oil and produced water that spilled from the Davis Facility  
11 during the December 2005 Davis Spill reached an unnamed tributary to Zaca  
12 Creek that runs through Santa Barbara County Assessor Parcel Numbers 133-190-  
13 001, 133-190-004, 133-190-007, 133-190-009, and 133-151-058 (“Zaca  
14 Tributary”) and its adjoining shorelines.

15           67. The December 2005 Davis Spill was of such quantity as to cause a  
16 film or sheen upon, or discoloration of, Zaca Tributary or adjoining shorelines, or  
17 to cause a sludge or emulsion to be deposited into Zaca Tributary or upon  
18 adjoining shorelines.

19           68. On or about January 5, 2008, Waste Water Tank #2 at the Davis  
20 Facility overfilled and ruptured, spilling crude oil and produced water (“January  
21 2008 Davis Spill”). The crude oil and produced water escaped the Davis Facility’s  
22 secondary containment unit and flowed down an access road and through a  
23 drainage culvert.

24           69. Crude oil and produced water that spilled from the Davis Facility  
25 during the January 2008 Davis Spill reached Zaca Tributary and its adjoining  
26 shorelines.

27           70. The January 2008 Davis Spill was of such quantity as to cause a film  
28 or sheen upon, or discoloration of, Zaca Tributary or adjoining shorelines, or to



1 cause a sludge or emulsion to be deposited into Zaca Tributary or upon adjoining  
2 shorelines.

3 71. Defendant owned and/or operated the Davis Facility at the time of the  
4 December 2005 Davis Spill and the January 2008 Davis Spill.

5 72. The Davis Facility is a structure, group of structures, equipment, or  
6 device used for exploring for, drilling for, producing, storing, handling,  
7 transferring, processing, and/or transporting oil.

8 73. The Davis Facility is a "facility" within the meaning of Section  
9 1001(9) of the OPA, 33 U.S.C. § 2701(9).

10 74. The Davis Facility is a facility located on land within the United  
11 States that is not submerged land.

12 75. The Davis Facility is an "onshore facility" within the meaning of  
13 Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and Section 1001(24) of  
14 the OPA, 33 U.S.C. § 2701(24).

15 76. Waste Water Tank #2 is a container from which pollutants are or may  
16 be discharged.

17 77. Waste Water Tank #2 is a "point source" within the meaning of  
18 Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

19 78. Neither the 2005 Davis Spill nor the January 2008 Davis Spill was  
20 authorized by the CWA, or by a permit or regulation issued pursuant to the CWA.

21 79. Zaca Tributary is a tributary to Zaca Creek. Zaca Creek is a tributary  
22 to the Santa Ynez River. The Santa Ynez River is a tributary to the Santa Ynez  
23 River Estuary, a traditionally navigable water that flows into the Pacific Ocean.

24 80. Zaca Tributary, Zaca Creek, and the Santa Ynez River each have a  
25 bed, banks, and ordinary high water marks.

26 81. Zaca Tributary, Zaca Creek, the Santa Ynez River, and the Santa  
27 Ynez River Estuary are "navigable waters" within the meaning of Sections  
28 311(b)(3) and 502(7) of the CWA, 33 U.S.C. §§ 1321(b)(3) and 1362(7), and

1 Section 1001(21) of the OPA, 33 U.S.C. § 2701(21).

2 82. The December 2005 Davis Spill and January 2008 Davis Spill were  
3 discharges of oil into or upon the navigable waters of the United States or  
4 adjoining shorelines within the meaning of Section 311(b)(3) of the CWA, 33  
5 U.S.C. § 1321(b)(3).

6 83. The December 2005 Davis Spill and January 2008 Davis Spill were  
7 each of a quantity “as may be harmful” within the meaning of Section 311(b)(3) of  
8 the CWA, 33 U.S.C. § 1321(b)(3), and 40 C.F.R. § 110.3.

9 84. The December 2005 Davis Spill and January 2008 Davis Spill were  
10 unlawful discharges of a pollutant within the meaning of Section 301(a) of the  
11 CWA, 33 U.S.C. § 1311(a).

12 85. The January 2008 Davis Spill was an “incident” within the meaning  
13 of Section 1001(14) of the OPA, 33 U.S.C. § 2701(14).

14 86. After the January 2008 Davis Spill, EPA and the Coast Guard  
15 incurred costs in the amount of \$403,921.87 in their efforts to contain and remove  
16 oil from water and shorelines, or in taking other actions as necessary to minimize  
17 or mitigate damage to the public health or welfare.

18 87. The removal costs incurred by EPA and the Coast Guard in  
19 connection with the January 2008 Davis Spill were paid from the Fund.

20 88. On December 30, 2009, the Coast Guard, on behalf of the Fund, sent  
21 Defendant a written request under Subchapter I of the OPA for compensation in  
22 the amount of \$403,921.87 for removal costs incurred in connection with the  
23 January 2008 Davis Spill.

24 89. Defendant has not paid the Coast Guard for removal costs incurred in  
25 connection with the January 2008 Davis Spill.

26 90. The January 2008 Davis Spill was a release to a water of the state  
27 within the meaning of California Water Code section 13050(e), which caused  
28 natural resource damages, and for which DFG expended monies from the Oil

1 Pollution Administration Subaccount which Defendant has not repaid in full to  
2 DFG.

3 Bell Facility Spills

4 91. On or about July 16, 2007, a flowline at Defendant's Bell Facility in  
5 Santa Maria, California, ruptured, spilling crude oil and produced water ("July  
6 2007 Bell Spill").

7 92. Crude oil and produced water that spilled from the Bell Facility  
8 during the July 2007 Bell Spill reached an unnamed tributary to Sisquoc Creek that  
9 runs along Palmer Road ("Palmer Road Creek") and its adjoining shorelines.

10 93. The July 2007 Bell Spill was of such quantity as to cause a film or  
11 sheen upon, or discoloration of, Palmer Road Creek or adjoining shorelines, or to  
12 cause a sludge or emulsion to be deposited into Palmer Road Creek or upon  
13 adjoining shorelines.

14 94. On or about December 7, 2007, an injection pond at the Bell Facility  
15 known as the Blochman Pond overflowed, spilling crude oil and produced water  
16 ("December 2007 Bell Spill"). The crude oil and produced water escaped the Bell  
17 Facility's secondary containment unit.

18 95. Crude oil and produced water that spilled from the Bell Facility  
19 during the December 2007 Bell Spill reached Palmer Road Creek and its adjoining  
20 shorelines.

21 96. The December 2007 Bell Spill was of such quantity as to cause a film  
22 or sheen upon, or discoloration of, Palmer Road Creek or adjoining shorelines, or  
23 to cause a sludge or emulsion to be deposited into Palmer Road Creek or upon  
24 adjoining shorelines.

25 97. On or about January 29, 2008, a corroded pipe at a settling pond at the  
26 Bell Facility failed, spilling crude oil and produced water ("January 2008 Bell  
27 Spill"). The crude oil and produced water escaped the Bell Facility's secondary  
28 containment unit.

1           98. Crude oil and produced water that spilled from the Bell Facility  
2 during the January 2008 Bell Spill reached Palmer Road Creek, Sisquoc Creek,  
3 and their adjoining shorelines.

4           99. The January 2008 Bell Spill was of such quantity as to cause a film or  
5 sheen upon, or discoloration of, Palmer Road Creek or adjoining shorelines, or to  
6 cause a sludge or emulsion to be deposited into Palmer Road Creek or upon  
7 adjoining shorelines.

8           100. On or about April 15, 2008, EPA determined that crude oil and  
9 produced water were leaking through the cracked concrete walls of a surface  
10 impoundment at the Bell Facility known as the Gato Ponds ("April 2008 Bell  
11 Spill").

12           101. The Gato Ponds were approximately 100 feet from Sisquoc Creek.

13           102. The April 2008 Bell Spill posed a substantial threat of a discharge of  
14 oil into or upon Sisquoc Creek or adjoining shorelines.

15           103. On April 30, 2008, EPA issued Defendant an Order for Removal,  
16 Mitigation or Prevention of a Substantial Threat of Oil Discharge ("Gato Ponds  
17 Removal Order") under Section 311(c) of the CWA, 33 U.S.C. § 1321(c), directing  
18 Defendant to remove the materials in the Gato Ponds, remove or decontaminate the  
19 Gato Ponds and the associated superstructure, and sample subsurface soil beneath  
20 and adjacent to the Gato Ponds for contamination.

21           104. Crude oil and produced water also spilled from a pipe, flowline, or  
22 injection line at the Bell Facility on or about June 8, 2005; July 13, 2005; August  
23 11, 2005; December 27, 2008 ("December 2008 Bell Spill"); May 1, 2009;  
24 October 14, 2010; and December 21, 2010.

25           105. Crude oil and/or produced water that spilled from the Bell Facility on  
26 or about each of the dates listed in Paragraph 104 reached Palmer Road Creek and  
27 its adjoining shorelines.

28           106. Each of the spills described in Paragraph 104 was of such quantity as

1 to cause a film or sheen upon, or discoloration of, Palmer Road Creek or adjoining  
2 shorelines, or to cause a sludge or emulsion to be deposited into Palmer Road  
3 Creek or upon adjoining shorelines.

4 107. Defendant owned and/or operated the Bell Facility at the time of the  
5 July 2007 Bell Spill, the December 2007 Bell Spill, the January 2008 Bell Spill,  
6 the April 2008 Bell Spill, and each of the spills described in Paragraph 104.

7 108. The Bell Facility is a structure, group of structures, equipment, or  
8 device used for exploring for, drilling for, producing, storing, handling,  
9 transferring, processing, and/or transporting oil.

10 109. The Bell Facility is a "facility" within the meaning of Section 1001(9)  
11 of the OPA, 33 U.S.C. § 2701(9).

12 110. The Bell Facility is a facility located on land within the United States  
13 that is not submerged land.

14 111. The Bell Facility is an "onshore facility" within the meaning of  
15 Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and Section 1001(24) of  
16 the OPA, 33 U.S.C. § 2701(24).

17 112. The pipes, flowlines, and injection lines described in Paragraphs 91,  
18 97, and 104 are pipes and/or conduits from which pollutants are or may be  
19 discharged.

20 113. The Blochman Pond at the Bell Facility is a container from which  
21 pollutants are or may be discharged.

22 114. The pipes, flowlines, and injection lines described in Paragraphs 91,  
23 97, and 104 and the Blochman Pond at the Bell Facility are "point sources" within  
24 the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

25 115. The July 2007 Bell Spill, the December 2007 Bell Spill, the January  
26 2008 Bell Spill, and the spills described in Paragraph 104 were not authorized by  
27 the CWA, or by a permit or regulation issued pursuant to the CWA.

28 116. Palmer Road Creek is a tributary to Sisquoc Creek. Sisquoc Creek is

1 a tributary to Cat Canyon Creek. Cat Canyon Creek is a tributary to the Sisquoc  
2 River. The Sisquoc River is a tributary to the Santa Maria River. The Santa Maria  
3 River is a tributary to the Santa Maria River Estuary, a traditionally navigable  
4 water that flows into the Pacific Ocean.

5 117. Palmer Road Creek, Sisquoc Creek, Cat Canyon Creek, the Sisquoc  
6 River, and the Santa Maria River each have a bed, banks, and ordinary high water  
7 marks.

8 118. Palmer Road Creek, Sisquoc Creek, Cat Canyon Creek, the Sisquoc  
9 River, the Santa Maria River, and the Santa Maria River Estuary are “navigable  
10 waters” within the meaning of Sections 311(b)(3) and 502(7) of the CWA, 33  
11 U.S.C. §§ 1321(b)(3) and 1362(7), and Section 1001(21) of the OPA, 33 U.S.C.  
12 § 2701(21).

13 119. The July 2007 Bell Spill, the December 2007 Bell Spill, the January  
14 2008 Bell Spill, and the spills described in Paragraph 104 were discharges of oil  
15 into or upon the navigable waters of the United States or adjoining shorelines  
16 within the meaning of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

17 120. The July 2007 Bell Spill, the December 2007 Bell Spill, the January  
18 2008 Bell Spill, and the spills described in Paragraph 104 were each of a quantity  
19 “as may be harmful” within the meaning of Section 311(b)(3) of the CWA, 33  
20 U.S.C. § 1321(b)(3), and 40 C.F.R. § 110.3.

21 121. The July 2007 Bell Spill, the December 2007 Bell Spill, the January  
22 2008 Bell Spill, and the spills described in Paragraph 104 were unlawful  
23 discharges of a pollutant within the meaning of Section 301(a) of the CWA, 33  
24 U.S.C. § 1311(a).

25 122. The January 2008 Bell Spill, April 2008 Bell Spill, and December  
26 2008 Bell Spill were each “incidents” within the meaning of Section 1001(14) of  
27 the OPA, 33 U.S.C. § 2701(14).

28 123. After the January 2008 Bell Spill, EPA incurred costs in the amount



1 of \$1,770,461.41 in its efforts to contain and remove oil from water and shorelines,  
2 or in taking other actions as necessary to minimize or mitigate damage to the  
3 public health or welfare.

4 124. After the April 2008 Bell Spill, EPA incurred costs in the amount of  
5 \$44,839.20 to prevent, minimize, or mitigate oil pollution from the Gato Ponds.

6 125. After the December 2008 Bell Spill, EPA and the Coast Guard  
7 incurred costs in the amount of \$189,782.16 in their efforts to contain and remove  
8 oil from water and shorelines, or in taking other actions as necessary to minimize  
9 or mitigate damage to the public health or welfare.

10 126. The removal costs incurred by EPA and the Coast Guard in  
11 connection with the January 2008 Bell Spill, April 2008 Bell Spill, and December  
12 2008 Bell Spill were paid from the Fund.

13 127. On December 30, 2009, the Coast Guard, on behalf of the Fund, sent  
14 Defendant a written request under Subchapter I of the OPA for compensation in  
15 the amount of \$1,770,461.41 for removal costs incurred in connection with the  
16 January 2008 Bell Spill.

17 128. On December 23, 2009, the Coast Guard, on behalf of the Fund, sent  
18 Defendant a written request under Subchapter I of the OPA for compensation in  
19 the amount of \$44,839.20 for removal costs incurred in connection with the April  
20 2008 Bell Spill.

21 129. On December 30, 2009, the Coast Guard, on behalf of the Fund, sent  
22 Defendant a written request under Subchapter I of the OPA for compensation in  
23 the amount of \$189,782.16 for removal costs incurred in connection with the  
24 December 2008 Bell Spill.

25 130. Defendant has not paid the Coast Guard for removal costs incurred in  
26 connection with the January 2008 Bell Spill, April 2008 Bell Spill, or December  
27 2008 Bell Spill.

28 131. The July 2007 Bell Spill, the December 2007 Bell Spill, the January

1 2008 Bell Spill, the December 2008 Bell Spill and the spills listed in Paragraph  
 2 104 after 2007 were all releases to waters of the state within the meaning of  
 3 California Water Code section 13050(e). These spills caused natural resource  
 4 damages. DFG expended monies from the Oil Pollution Administration  
 5 Subaccount to respond to these spills which Defendant has not repaid in full to  
 6 DFG.

7 Other Spills in Violation of State Law

8 132. In addition to each of the spills identified in Paragraph 131, Defendant  
 9 also was responsible for causing other spills in violation of state law, each of which  
 10 was made to a water of the state.

11 133. On June 8, 2007, a 6-inch produced water pipe ruptured at  
 12 Defendant's Bradley Three-Island Facility, causing a spill of crude oil and  
 13 produced water to a creek bed ("June 2007 Bradley Three-Island Spill").

14 134. Between January 24, 2008, and February 3, 2008, Defendant  
 15 experienced at least six spills at its Bradley Three-Island, U-Cal, and Cat Canyon  
 16 Facilities (the "January/February 2008 Spills").

17 a. On January 24, 2008, a broken generator at Defendant's  
 18 Bradley Three-Island Facility caused the release of crude oil and produced water  
 19 being released to a nearby creek bed ("Spill Event No. 1").

20 b. On January 24, 2008, "out of service" omni vessels overflowed  
 21 and leaked at Defendant's U-Cal Facility, causing a spill of crude oil and produced  
 22 water being released to an unnamed pond and thereafter to a creek ("Spill Event  
 23 No. 2").

24 c. On January 24, 2008, omni-pits overflowed and leaked at  
 25 Defendant's U-Cal Facility, causing a spill of crude oil and produced water being  
 26 released to an unnamed pond and thereafter to a creek ("Spill Event No. 3").

27 d. On January 27, 2008, waste water containment tank leaked at  
 28 Defendant's Cat Canyon Facility, causing a spill of crude oil and produced water

1 to be released to a nearby creek ("Spill Event No. 6").

2 e. On January 27, 2008, an electrical transformer on a power pole  
3 fell at Defendant's Bradley Three-Island Facility, causing a spill of PCB-  
4 containing oil to be released to an adjacent creek ("Spill Event No. 7").

5 f. On February 3, 2008, a pool of crude oil and produced water  
6 leaked from behind a berm at Defendant's Security Facility, causing a spill of  
7 crude oil and produced water to reach a creek ("Spill Event No. 8").

8 135. On March 3, 2008, a 4-inch corroded flow line was discovered to have  
9 previously failed at Defendant's U-Cal Facility directly above a creek, causing a  
10 release of crude oil directly into the creek ("March 2008 U-Cal Spill").

11 136. On July 2, 2009, a leaking injection line at Defendant's Bell Facility  
12 caused a spill of crude oil and produced water to reach an unnamed creek ("July  
13 2009 Bell Spill").

#### 14 The Williams B Removal Action

15 137. On March 12, 2008, EPA observed storage tanks at the Williams B  
16 Facility that were uncovered, heavily corroded, and leaking oil onto the ground.  
17 EPA observed no secondary containment around the storage tanks.

18 138. The Williams B Facility is bordered to the west by an unnamed  
19 tributary to Cat Canyon Creek.

20 139. On March 19, 2008, EPA issued Defendant an Order for Removal,  
21 Mitigation or Prevention of a Substantial Threat of Oil Discharge ("Williams B  
22 Removal Order") under Section 311(c) of the CWA, 33 U.S.C. § 1321(c), directing  
23 Defendant to remove the oil from the tanks, demolish the tanks, and excavate  
24 contaminated soil.

25 140. EPA monitored Defendant's performance of the removal action  
26 ("Williams B Removal Action") pursuant to the Williams B Removal Order.

27 141. At the time of the Williams B Removal Order, the Williams B Facility  
28 posed a substantial threat of a discharge of oil into or upon Cat Canyon Creek or

1 adjoining shorelines.

2 142. Defendant owned and/or operated the Williams B Facility at the time  
3 of the Williams B Removal Order and the Williams B Removal Action.

4 143. At all relevant times, the Williams B Facility was a structure, group of  
5 structures, equipment, or device used for exploring for, drilling for, producing,  
6 storing, handling, transferring, processing, and/or transporting oil.

7 144. At all relevant times, the Williams B Facility was a “facility” within  
8 the meaning of Section 1001(9) of the OPA, 33 U.S.C. § 2701(9).

9 145. At all relevant times, the Williams B Facility was a facility located on  
10 land within the United States that is not submerged land.

11 146. At all relevant times, the Williams B Facility was an “onshore  
12 facility” within the meaning of Section 1001(24) of the OPA, 33 U.S.C.  
13 § 2701(24).

14 147. The circumstances that resulted in the conditions described in  
15 Paragraph 137 constituted an “incident” within the meaning of Section 1001(14) of  
16 the OPA, 33 U.S.C. § 2701(14).

17 148. While monitoring the Williams B Removal Action, EPA incurred  
18 costs in the amount of \$5,340.99 to prevent, minimize, or mitigate oil pollution  
19 from the Williams B Facility.

20 149. EPA’s removal costs incurred in connection with the Williams B  
21 Removal Action were paid from the Fund.

22 150. On December 23, 2009, the Coast Guard, on behalf of the Fund, sent  
23 Defendant a written request under Subchapter I of the OPA for compensation in  
24 the amount of \$5,340.99 for removal costs incurred in connection with the  
25 Williams B Removal Action.

26 151. Defendant has not paid the Coast Guard for removal costs incurred in  
27 connection with the Williams B Removal Action.  
28

Violations of Oil Pollution Prevention Regulations

152. Each of the oil and gas production facilities identified in Attachment A was in operation on or before August 16, 2002.

153. At times relevant to this action, each facility identified in Attachment A was located on land within the United States.

154. At times relevant to this action, each facility identified in Attachment A was located on land within the United States other than submerged lands.

155. At times relevant to this action, each facility identified in Attachment A was a non-transportation-related “onshore facility” within the meaning of 40 C.F.R. § 112.2.

156. At times relevant to this action, each facility identified in Attachment A was engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products.

157. At times relevant to this action, each facility identified in Attachment A had oil in one or more aboveground containers, or containers that were not “permanently closed” as defined in 40 C.F.R. § 112.2.

158. The Bell Facility and the Davis Facility each have a total oil storage capacity of at least one million gallons.

159. The Bell Facility and the Davis Facility each have had a reportable oil discharge of at least 10,000 gallons within the last five years.

160. Drainage from the Chamberlin Facility travels downgradient for approximately 1,000 feet before entering Zaca Tributary.

161. Drainage from the Davis Facility travels downgradient for approximately 800 feet before entering Zaca Tributary.

162. Drainage from the Bell Facility travels directly into Palmer Road Creek through pipes that cross Palmer Road Creek.

163. Drainage from the Williams B Facility travels downgradient for approximately 250 feet before entering an unnamed tributary to Cat Canyon Creek.

1           164. Drainage from the Battles Facility travels downgradient along Battles  
2 Road for half a mile before entering a flood control channel that flows into the  
3 Santa Maria River.

4           165. Drainage from the Casmalia Facility travels downgradient for  
5 approximately 450 feet before entering an unnamed tributary to Casmalia Creek.

6           166. Drainage from the Escolle Facility travels downgradient for  
7 approximately 600 feet before entering an unnamed tributary to Casmalia Creek.

8           167. The unnamed tributaries to Casmalia Creek described in Paragraphs  
9 165 and 166 are tributaries to Casmalia Creek. Casmalia Creek flows into the  
10 Pacific Ocean, a traditionally navigable water.

11           168. The unnamed tributaries to Casmalia Creek described in Paragraphs  
12 165 and 166 and Casmalia Creek each have a bed, banks, and ordinary high water  
13 marks.

14           169. The unnamed tributaries to Casmalia Creek described in Paragraphs  
15 165 and 166 and Casmalia Creek are "navigable waters" within the meaning of  
16 Sections 311(b)(3) and 502(7) of the CWA, 33 U.S.C. §§ 1321(b)(3) and 1362(7).

17           170. Drainage from the Lakeview Facility travels downgradient for  
18 approximately one mile before entering Bradley Canyon Creek.

19           171. Drainage from the Lloyd Facility travels downgradient for  
20 approximately 50 feet before entering an unnamed tributary to Bradley Canyon  
21 Creek.

22           172. Drainage from the Los Flores Facility travels downgradient for  
23 approximately 380 feet before entering an unnamed tributary to Bradley Canyon  
24 Creek.

25           173. Drainage from the Security Facility travels downgradient for  
26 approximately 200 feet before entering an unnamed tributary to Bradley Canyon  
27 Creek.

28           174. Drainage from the U-Cal Facility travels directly into Bradley Canyon



1 Creek or an unnamed tributary to Bradley Canyon Creek through pipes that cross  
2 Bradley Canyon Creek or an unnamed tributary to Bradley Canyon Creek.

3 175. The unnamed tributaries to Bradley Canyon Creek described in  
4 Paragraphs 171 through 174 are tributaries to Bradley Canyon Creek. Bradley  
5 Canyon Creek is a tributary to the Santa Maria River.

6 176. The unnamed tributaries to Bradley Canyon Creek described in  
7 Paragraphs 171 through 174 and Bradley Canyon Creek each have a bed, banks,  
8 and ordinary high water marks.

9 177. The unnamed tributaries to Bradley Canyon Creek described in  
10 Paragraphs 171 through 174 and Bradley Canyon Creek are "navigable waters"  
11 within the meaning of Sections 311(b)(3) and 502(7) of the CWA, 33 U.S.C.  
12 §§ 1321(b)(3) and 1362(7).

13 178. At times relevant to this action, a discharge of oil from each facility  
14 identified in Attachment A could reasonably have been expected to cause a film or  
15 sheen upon or discoloration of the surface of the water of the navigable waters of  
16 the United States or adjoining shorelines, or to cause a sludge or emulsion to be  
17 deposited beneath the surface of the water of the navigable waters of the United  
18 States or upon adjoining shorelines.

19 179. At times relevant to this action, each facility identified in Attachment  
20 A was subject to the Oil Pollution Prevention regulations set forth at 40 C.F.R. Part  
21 112.

## 22 FIRST CLAIM FOR RELIEF

### 23 Violations of Section 311 of the Clean Water Act

24 180. Paragraphs 1 through 179 are realleged and incorporated herein by  
25 reference.

26 181. The discharges alleged in Paragraphs 65 through 70 and Paragraphs  
27 91 through 106 violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

28 182. Pursuant to Section 311(b)(7)(A) and (D) of the CWA, 33 U.S.C.

§ 1321(b)(7)(A) and (D), Defendant is liable for a civil penalty of up to \$1,100 per barrel of oil discharged, or, if it is established that the violations were the result of gross negligence or willful misconduct, a civil penalty of up to \$4,300 per barrel of oil discharged.

## SECOND CLAIM FOR RELIEF

### Violations of Section 301 of the Clean Water Act

183. Paragraphs 1 through 179 are realleged and incorporated herein by reference.

184. The discharges alleged in Paragraphs 65 through 70 and Paragraphs 91 through 106 violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

185. Subject to a reasonable opportunity for further investigation or discovery, violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), are likely to continue unless enjoined by an order of the Court.

186. Defendant is subject to appropriate injunctive relief pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), to prevent further discharges from its facilities into waters of the United States.

## THIRD CLAIM FOR RELIEF

### Failure to Prepare and Implement and/or Maintain SPCC Plans

#### (40 C.F.R. Part 112)

187. Paragraphs 1 through 179 are realleged and incorporated herein by reference.

188. At each of the oil and gas production facilities identified in Attachment A, Defendant failed to prepare and implement an SPCC Plan in accordance with the requirements of 40 C.F.R. Part 112, as required by 40 C.F.R. § 112.3, and/or failed to maintain an SPCC Plan in accordance with the requirements of 40 C.F.R. Part 112 (2002), as required by 40 C.F.R. § 112.3(a).

189. At certain oil and gas production facilities identified in Attachment A, Defendant:

1           a.     Failed to prepare an SPCC Plan, as required by 40 C.F.R.  
2     § 112.1(e), 112.3, and 112.7 and/or 40 C.F.R. § 112.1(e), 112.3, and 112.7 (2002)  
3     (Lakeview and Williams B Facilities);

4           b.     Failed to review, amend as necessary, and recertify its SPCC  
5     Plan, as required by 40 C.F.R. § 112.5(a) and/or 40 C.F.R. § 112.5(a) (2002)  
6     (Davis Facility);

7           c.     Failed to include in its SPCC Plan adequate detail regarding  
8     discharge prevention and drainage controls, as required by 40 C.F.R. § 112.7(a)(3)  
9     and/or 40 C.F.R. § 112.7(c) (2002) (Bell, Lloyd, and Security Facilities);

10          d.     Failed to provide and maintain adequate containment and  
11     drainage controls, as required by 40 C.F.R. § 112.7(c), 112.7(h)(1), and 112.9(c)(2)  
12     and/or 40 C.F.R. § 112.7(c), 112.7(e)(4), and 112.7(e)(5) (2002) (Battles, Bell,  
13     Casmalia, Davis, Lakeview, Lloyd, Los Flores, Security, U-Cal, and Williams B  
14     Facilities);

15          e.     Failed to maintain with its SPCC Plan adequate written  
16     inspection procedures and records of inspections, as required by 40 C.F.R.  
17     § 112.7(e) and/or 112.7(e)(8) (2002) (Bell, Security, and U-Cal Facilities);

18          f.     Failed to inspect for and remove accumulations of discharged  
19     oil, as required by 40 C.F.R. § 112.9(b)(1) and (2) and/or 40 C.F.R. § 112.7(e)(5)  
20     (2002) (Battles, Bell, Casmalia, Chamberlin, Davis, Los Flores, Security, U-Cal,  
21     and Williams B Facilities);

22          g.     Used containers for the storage of oil whose material and  
23     construction were incompatible with the material stored and the conditions of  
24     storage, in violation of 40 C.F.R. § 112.9(c)(1) and/or 40 C.F.R. § 112.7(e)(5)  
25     (2002) (Battles, Lakeview, Lloyd, and Williams B Facilities);

26          h.     Failed to develop and implement a program of flowline  
27     maintenance, as required by 40 C.F.R. § 112.9(d)(3) and/or 40 C.F.R. § 112.7(e)(5)  
28     (2002) (Battles, Bell, Casmalia, Chamberlin, Davis, Escolle, Lakeview, Lloyd, Los

1 Flores, Security, U-Cal, and Williams B Facilities); and

2 i. Failed to address in its SPCC Plan the requirements for onshore  
3 oil drilling and workover facilities set forth in 40 C.F.R. § 112.10 and/or 40 C.F.R.  
4 § 112.7(e)(6) (2002) (Battles, Bell, Casmalia, Chamberlin, Davis, Escolle, Lloyd,  
5 Los Flores, Security, and U-Cal Facilities).

6 190. Subject to a reasonable opportunity for further investigation or  
7 discovery, these violations are likely to continue unless enjoined by an order of the  
8 Court.

9 191. Pursuant to Section 311(b)(7)(C) of the CWA, 33 U.S.C.  
10 § 1321(b)(7)(C), and 40 C.F.R. § 19, Defendant is liable for a civil penalty of up to  
11 \$32,500 per day of violation for each violation of the Oil Pollution Prevention  
12 regulations occurring from March 15, 2004, through January 12, 2009, and up to  
13 \$37,500 per day of violation for each violation of the Oil Pollution Prevention  
14 regulations occurring after January 12, 2009.

#### 15 FOURTH CLAIM FOR RELIEF

##### 16 Failure to Prepare and Submit Facility Response Plans

##### 17 (40 C.F.R. § 112.20)

18 192. Paragraphs 1 through 179 are realleged and incorporated herein by  
19 reference.

20 193. Defendant failed to prepare and submit to EPA a Facility Response  
21 Plan for the Bell Facility and the Davis Facility in accordance with the  
22 requirements of 40 C.F.R. § 112.20.

23 194. By failing to prepare and submit to EPA a Facility Response Plan for  
24 the Bell Facility and the Davis Facility, Defendant violated 40 C.F.R. § 112.20.

25 195. Subject to a reasonable opportunity for further investigation or  
26 discovery, these violations are likely to continue unless enjoined by an order of the  
27 Court.

28 196. Pursuant to Section 311(b)(7)(C) of the CWA, 33 U.S.C.

§ 1321(b)(7)(C), and 40 C.F.R. § 19, Defendant is liable for a civil penalty of up to \$32,500 per day of violation for each such violation occurring from March 15, 2004, through January 12, 2009, and up to \$37,500 per day of violation for each such violation occurring after January 12, 2009.

#### FIFTH CLAIM FOR RELIEF

##### Recovery of Removal Costs Under the Oil Pollution Act of 1990

197. Paragraphs 1 through 179 are realleged and incorporated herein by reference.

198. Defendant is the responsible party for facilities from which oil was discharged, or which posed the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines in connection with the January 2008 Davis Spill, the January 2008 Bell Spill, the April 2008 Bell Spill, the December 2008 Bell Spill, and the Williams B Removal Action.

199. As the responsible party for such facilities, Defendant is liable to the United States, pursuant to Section 1002(a) of the OPA, 33 U.S.C. § 2702(a), for at least \$2,414,345.63 in removal costs that resulted from the incidents listed in Paragraph 198, along with interest and attorney's fees.

#### SIXTH CLAIM FOR RELIEF

##### Violations of California Water Code Section 13350

200. Paragraphs 1 through 179 are realleged and incorporated herein by reference.

201. The discharges alleged in Paragraphs 68 through 71, Paragraphs 76 through 82, Paragraph 84, Paragraphs 90 through 99, Paragraphs 104 through 107, Paragraphs 112 through 119, and Paragraphs 131 through 136 violated California Water Code section 13350(a).

202. Pursuant to California Water Code section 13350(d), Defendant is liable to the Regional Board for a civil penalty of up to \$15,000 per day of violation, or up to 20 dollars per gallon of waste discharged.

1                                    SEVENTH CLAIM FOR RELIEF

2                                    Violations of California Water Code Section 13385

3            203. Paragraphs 1 through 179 are realleged and incorporated herein by  
4 reference.

5            204. The discharges alleged in Paragraphs 68 through 71, Paragraphs 76  
6 through 82, Paragraph 84, Paragraphs 90 through 99, Paragraphs 104 through 107,  
7 Paragraphs 112 through 119, and Paragraph 135 violated California Water Code  
8 section 13385(a).

9            205. Pursuant to California Water Code section 13385(d), Defendant is  
10 liable to the Regional Board for a civil penalty of up to \$25,000 per day of  
11 violation, and up to 25 dollars per gallon of waste discharged in excess of 1,000  
12 gallons not recovered.

13                                    EIGHTH CLAIM FOR RELIEF

14                                    Violations of California Fish and Game Code Section 5650

15            206. Paragraphs 1 through 179 are realleged and incorporated herein by  
16 reference.

17            207. The discharges alleged in Paragraphs 68 through 71, Paragraphs 76  
18 through 82, Paragraph 84, Paragraphs 90 through 99, Paragraphs 104 through 107,  
19 Paragraphs 112 through 119, and Paragraphs 134 through 136 violated California  
20 Fish and Game Code section 5650(a).

21            208. Pursuant to California Fish and Game Code section 5650.1, Defendant  
22 is liable to DFG for a civil penalty of up to \$25,000 per day of violation.

23                                    NINTH CLAIM FOR RELIEF

24                                    Recovery of Natural Resource Damages

25                                    (California Fish and Game Code Section 12016)

26            209. Paragraphs 1 through 179 are realleged and incorporated herein by  
27 reference.

28            210. The discharges alleged in Paragraphs 68 through 71, Paragraphs 76



1 through 82, Paragraph 84, Paragraphs 90 through 99, Paragraphs 104 through 107,  
2 Paragraphs 112 through 119, and Paragraphs 134 through 136 resulted in damages  
3 to natural resources.

4 211. Pursuant to California Fish and Game Code section 12016, Defendant  
5 is liable to DFG for all actual damages to fish, plant, bird or animal life or their  
6 habitat and, in addition, for the reasonable costs incurred in cleaning up the  
7 deleterious substances or material or abating its effects, or both.

8 TENTH CLAIM FOR RELIEF

9 Recovery of Costs

10 (California Fish and Game Code Section 13013)

11 212. Paragraphs 1 through 179 are realleged and incorporated herein by  
12 reference.

13 213. DFG made expenditures from the Oil Pollution Administrative  
14 Subaccount to respond to the discharges alleged in Paragraphs 68 through 71,  
15 Paragraphs 76 through 82, Paragraph 84, Paragraphs 90 through 99, Paragraphs  
16 104 through 107, Paragraphs 112 through 119, and Paragraphs 134 through 136.

17 214. DFG incurred costs arising from the administration and enforcement  
18 of applicable pollution laws in connection with the discharges described in the  
19 paragraph immediately above.

20 215. Pursuant to California Fish and Game Code section 13013(c),  
21 Defendant is liable to DFG for all such expenditures and costs.

22 PRAYER FOR RELIEF

23 WHEREFORE, Plaintiffs, the United States of America and the People of  
24 the State of California *ex rel.* California Department of Fish and Game and  
25 California Regional Water Quality Control Board, Central Coast Region,  
26 respectfully request that the Court:

27 1. Issue an order requiring Defendant to take all appropriate action to  
28 prevent future discharges of oil into waters of the United States and waters of the

1 state;

2 2. Enter judgment against Defendant and award the United States civil  
3 penalties in an amount up to \$1,100 per barrel of oil discharged for the discharges  
4 alleged above, or, if it is established that the discharges were the result of gross  
5 negligence or willful misconduct, in an amount up to \$4,300 per barrel of oil  
6 discharged;

7 3. Issue an order requiring Defendant to take all appropriate action to  
8 ensure implementation of the Oil Pollution Prevention regulations;

9 4. Enter judgment against Defendant and award the United States civil  
10 penalties in an amount up to \$32,500 per day of violation for each violation of the  
11 Oil Pollution Prevention regulations at 40 C.F.R. Part 112 occurring from March  
12 15, 2004, through January 12, 2009, and up to \$37,500 per day of violation for  
13 each violation of the Oil Pollution Prevention regulations occurring after January  
14 12, 2009;

15 5. Enter judgment against Defendant and award the United States at least  
16 \$2,414,345.63 in removal costs incurred by the United States in connection with  
17 the incidents listed in Paragraph 198, along with interest and attorney's fees;

18 6. Enter judgment against Defendant and award the Regional Board civil  
19 penalties in an amount up to 20 dollars per gallon discharged or up to \$15,000 per  
20 day of violation (whichever is greater) for violations of California Water Code  
21 section 13350, or in the alternative, civil penalties in an amount up to \$25,000 per  
22 day of violation plus 25 dollars per gallon of waste discharged in excess of 1,000  
23 gallons not cleaned up pursuant to California Water Code section 13385  
24 (whichever is greater);

25 7. Enter judgment against Defendant and award DFG civil penalties in  
26 an amount up to \$25,000 per violation of California Fish and Game Code section  
27 5650;

28 8. Enter judgment against Defendant and award DFG an amount

1 sufficient to compensate for the natural resource damages caused by Defendant's  
2 releases pursuant to California Fish and Game Code section 12016;

3 9. Enter judgment against Defendant and award DFG at \$194,938 in  
4 currently outstanding unpaid response costs pursuant to California Fish and Game  
5 Code section 13013 (the amount of such response costs owed to DFG is expected  
6 to change over time);

7 10. Award DFG and the Regional Board all costs of investigating and  
8 prosecuting the action, including expert fees, reasonable attorney's fees, and costs  
9 pursuant to California Code of Civil Procedure section 1021.8; and

10 11. Grant such other relief as this Court deems just and proper.  
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Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:



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Assistant Attorney General  
Environment and Natural Resources Division



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Environment and Natural Resources Division  
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1 FOR THE PEOPLE OF THE STATE OF  
2 CALIFORNIA, *ex rel.* CALIFORNIA  
3 DEPARTMENT OF FISH AND GAME and  
4 CALIFORNIA REGIONAL WATER  
5 QUALITY CONTROL BOARD, CENTRAL  
6 COAST REGION:

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ATTACHMENT A

Facilities In Violation of Oil Pollution Prevention Regulations

(40 C.F.R. Part 112)

1. Battles Facility, 1348 Battles Road, Santa Maria, CA
2. Bell Facility, 6780 Palmer Road, Santa Maria, CA
3. Casmalia Facility, 5080 Black Road, Santa Maria, CA
4. Chamberlin Facility, 5017 Zaca Station Road, Los Olivos, CA
5. Davis Facility, 5017 Zaca Station Road, Los Olivos, CA
6. Escolle Facility, 7275 Graciosa Road, Santa Maria, CA
7. Lakeview Facility, 2617 East Clark Avenue, Santa Maria, CA
8. Lloyd Facility, 5200 Dominion Road, Santa Maria, CA
9. Los Flores Facility, 6151 Dominion Road, Santa Maria, CA
10. Security Facility, 5200 Dominion Road, Santa Maria, CA
11. U-Cal Facility, 6527 Dominion Road, Santa Maria, CA
12. Williams B Facility, Cat Canyon Road, Santa Maria, CA



**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is Ralph Zarefsky.

The case number on all documents filed with the Court should read as follows:

**CV11- 5097 DDP (RZx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

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**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.